

*disabled families.* If the owner of an elderly project determines, in accordance with paragraph (f) of this section, that there are an insufficient number of non-elderly disabled families to fill all the vacant units in the elderly project reserved for non-elderly disabled families as provided in paragraph (c) of this section, the owner may give preference for occupancy of these units to disabled families who are near-elderly families.

(e) *Availability of units to families without regard to preference.* An owner shall make vacant units in an elderly project generally available to otherwise eligible families who apply for housing, without regard to the preferences and reservation of units provided in this section if either:

(1) The owner has adopted the secondary preferences and there are an insufficient number of families for whom elderly preference, reserve preference, and secondary preference has been given, to fill all the vacant units; or

(2) The owner has *not* adopted the secondary preferences and there are an insufficient number of families for whom elderly preference, and reserve preference has been given to fill all the vacant units.

(f) *Determination of insufficient number of applicants qualifying for preference.* To make a determination that there are an insufficient number of applicants who qualify for the preferences, including secondary preferences, provided by this section, the owner must:

(1) Conduct marketing in accordance with §884.214(a) to attract applicants qualifying for the preferences and reservation of units set forth in this section; and

(2) Make a good faith effort to lease to applicants who qualify for the preferences provided in this section, including taking all feasible actions to fill vacancies by renting to such families.

(g) *Prohibition of evictions.* An owner may not evict a tenant without good cause, or require that a tenant vacate a unit, in whole or in part because of any reservation or preference provided in this section, or because of any action taken by the Secretary pursuant to subtitle D (sections 651 through 661) of title VI of the Housing and Commu-

nity Development Act of 1992 (42 U.S.C. 13611 through 13620).

[59 FR 65855, Dec. 21, 1994, as amended at 61 FR 9047, Mar. 6, 1996; 65 FR 16723, Mar. 29, 2000]

EFFECTIVE DATE NOTE: At 65 FR 16723, Mar. 29, 2000, §884.223a was amended by removing paragraph (g) and redesignating paragraph (h) as (g), effective Apr. 28, 2000. For the convenience of the user, the superseded text is set forth as follows:

**§ 884.223a Preference for occupancy by elderly families.**

\* \* \* \* \*

(g) *Federal preferences.* An owner that gives preferences to elderly families and reserves units for non-elderly disabled families in accordance with this section also shall select applicants among each respective group in accordance with the Federal preferences contained in 24 CFR part 5. Projects under National Housing Act programs and receiving section 8 assistance may be subject to preferences in addition to those contained in 24 CFR part 5 which also must be applied in selecting applicants among each respective group.

**§ 884.224 HUD review of contract compliance.**

HUD will review project operation at such intervals as it deems necessary to ensure that the Owner is in full compliance with the terms and conditions of the Contract. Equal Opportunity review may be conducted with the scheduled HUD review or at any time deemed appropriate by HUD.

**§ 884.225 PHA reporting requirements. [Reserved]**

**PART 886—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SPECIAL ALLOCATIONS**

**Subpart A—Additional Assistance Program for Projects With HUD-Insured and HUD-Held Mortgages**

Sec.

- 886.101 Applicability.
- 886.102 Definitions.
- 886.103 Allocation of Section 8 contract authority.
- 886.104 Invitations to participate.
- 886.105 Content of application; Disclosure.
- 886.106 Notices.
- 886.107 Approval of applications.